



Reprinted
April 6, 2007

ENGROSSED HOUSE BILL No. 1116

DIGEST OF HB 1116 (Updated April 5, 2007 4:33 pm - DI 104)

Citations Affected: IC 9-21; IC 20-28; IC 20-34; IC 34-6; IC 34-13; IC 34-30; noncode.

Synopsis: Immunity, volunteer health aides for diabetic students and emergency procedures training for teachers. Requires an individual to have training in cardiopulmonary resuscitation (CPR), removing obstructions to a person's airway, and the Heimlich maneuver before obtaining an initial license as a teacher. Provides a governmental entity
(Continued next page)

Effective: Upon passage; July 1, 2007.

Cheatham, Klinker, Dermody, Duncan

(SENATE SPONSORS — LANDSKE, ROGERS)

January 8, 2007, read first time and referred to Committee on Education.
February 15, 2007, amended, reported — Do Pass.
February 19, 2007, read second time, ordered engrossed. Engrossed.
February 20, 2007, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Education and Career Development.
March 6, 2007, pursuant to Senate Rule 65(b), reassigned to Committee on Health and Provider Services.
March 29, 2007, amended, reported favorably — Do Pass.
April 5, 2007, read second time, amended, ordered engrossed.

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EH 1116—LS 6404/DI 109+



or an employee acting within the scope of the employee's employment immunity from a loss resulting from the operation of an authorized emergency vehicle under certain circumstances. Establishes immunity from liability for certain acts or omissions by a teacher who has been trained in CPR, removing obstructions, and the Heimlich maneuver. Establishes a training program for school nurses and for school employees who volunteer to assist students with diabetes in managing and treating the diabetes. Sets forth requirements for individualized health plans for students who will be managing and treating diabetes while at school or school activities. Requires a school corporation to report information on the number of students with chronic diseases and the number of school nurses. Requires the department of education to report certain information to the health finance commission.

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Reprinted
April 6, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1116

A BILL FOR AN ACT to amend the Indiana Code concerning
health matters.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This section applies to the
3 person who drives an authorized emergency vehicle when:

- 4 (1) responding to an emergency call;
5 (2) in the pursuit of an actual or suspected violator of the law; or
6 (3) responding to, but not upon returning from, a fire alarm.

7 (b) The person who drives an authorized emergency vehicle may do
8 the following:

- 9 (1) Park or stand, notwithstanding other provisions of this article.
10 (2) Proceed past a red or stop signal or stop sign, but only after
11 slowing down as necessary for safe operation.
12 (3) Exceed the maximum speed limits if the person who drives the
13 vehicle does not endanger life or property.
14 (4) Disregard regulations governing direction of movement or
15 turning in specified directions.

16 (c) This section applies to an authorized emergency vehicle only
17 when the vehicle is using audible or visual signals as required by law.

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1 An authorized emergency vehicle operated as a police vehicle is not
 2 required to be equipped with or display red and blue lights visible from
 3 in front of the vehicle.

4 (d) This section does not do the following:

5 (1) Relieve the person who drives an authorized emergency
 6 vehicle from the duty to drive with due regard for the safety of all
 7 persons.

8 (2) Protect the person who drives an authorized emergency
 9 vehicle from the consequences of the person's reckless disregard
 10 for the safety of others.

11 **(3) Abrogate the immunity granted under IC 34-13-3-3.**

12 SECTION 2. IC 9-21-8-35 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35. (a) Upon the
 14 immediate approach of an authorized emergency vehicle, when the
 15 person who drives the authorized emergency vehicle is giving audible
 16 signal by siren or displaying alternately flashing red, red and white, or
 17 red and blue lights, a person who drives another vehicle shall do the
 18 following unless otherwise directed by a law enforcement officer:

19 (1) Yield the right-of-way.

20 (2) Immediately drive to a position parallel to and as close as
 21 possible to the right-hand edge or curb of the highway clear of any
 22 intersection.

23 (3) Stop and remain in the position until the authorized
 24 emergency vehicle has passed.

25 (b) Upon approaching a stationary authorized emergency vehicle,
 26 when the authorized emergency vehicle is giving a signal by displaying
 27 alternately flashing red, red and white, or red and blue lights, a person
 28 who drives an approaching vehicle shall:

29 (1) proceeding with due caution, yield the right-of-way by making
 30 a lane change into a lane not adjacent to that of the authorized
 31 emergency vehicle, if possible with due regard to safety and
 32 traffic conditions, if on a highway having at least four (4) lanes
 33 with not less than two (2) lanes proceeding in the same direction
 34 as the approaching vehicle; or

35 (2) proceeding with due caution, reduce the speed of the vehicle,
 36 maintaining a safe speed for road conditions, if changing lanes
 37 would be impossible or unsafe.

38 (c) Upon approaching a stationary recovery vehicle or a stationary
 39 highway maintenance vehicle, when the vehicle is giving a signal by
 40 displaying alternately flashing amber lights, a person who drives an
 41 approaching vehicle shall:

42 (1) proceeding with due caution, yield the right-of-way by making

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a lane change into a lane not adjacent to that of the recovery vehicle or highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or
 (2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(d) This section does not operate to:

(1) relieve the person who drives an authorized emergency vehicle, a recovery vehicle, or a highway maintenance vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway; **and**

(2) abrogate the immunity granted under IC 34-13-3-3.

SECTION 3. IC 20-28-5-3, AS ADDED BY P.L.246-2005, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The department shall designate:

(1) the grade point average required for each type of license; and
 (2) the types of licenses to which the teachers' minimum salary laws apply, including nonrenewable one (1) year limited licenses.

(b) The department shall determine details of licensing not provided in this chapter, including requirements regarding the following:

- (1) The conversion of one (1) type of license into another.
- (2) The accreditation of teacher education schools and departments.
- (3) The exchange and renewal of licenses.
- (4) The endorsement of another state's license.
- (5) The acceptance of credentials from teacher education institutions of another state.
- (6) The academic and professional preparation for each type of license.
- (7) The granting of permission to teach a high school subject area related to the subject area for which the teacher holds a license.
- (8) The issuance of licenses on credentials.
- (9) The type of license required for each school position.
- (10) The size requirements for an elementary school requiring a licensed principal.
- (11) Any other related matters.

The department shall establish at least one (1) system for renewing a teaching license that does not require a graduate degree.

(c) After June 30, 2007, the department may not issue an initial

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1 teaching license at any grade level to an applicant for an initial
 2 teaching license unless the applicant shows evidence that the
 3 applicant:

4 (1) has successfully completed training approved by the
 5 department in:

6 (A) cardiopulmonary resuscitation that includes a test
 7 demonstration on a mannequin;

8 (B) removing a foreign body causing an obstruction in an
 9 airway; and

10 (C) the Heimlich maneuver;

11 (2) holds a valid certification in each of the procedures
 12 described in subdivision (1) issued by:

13 (A) the American Red Cross;

14 (B) the American Heart Association; or

15 (C) a comparable organization or institution approved by
 16 the advisory board; or

17 (3) has physical limitations that make it impracticable for the
 18 applicant to complete a course or certification described in
 19 subdivision (1) or (2).

20 ~~(c)~~ (d) The department shall periodically publish bulletins regarding:

21 (1) the details described in subsection (b);

22 (2) information on the types of licenses issued;

23 (3) the rules governing the issuance of each type of license; and

24 (4) other similar matters.

25 SECTION 4. IC 20-34-5 IS ADDED TO THE INDIANA CODE AS
 26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2007]:

28 **Chapter 5. Care of Students With Diabetes**

29 **Sec. 1.** As used in this chapter, "diabetes management and
 30 treatment plan" means a plan prepared under section 12 of this
 31 chapter.

32 **Sec. 2.** As used in this chapter, "health care services" has the
 33 meaning set forth in IC 27-8-11-1.

34 **Sec. 3.** As used in this chapter, "individualized health plan"
 35 means a coordinated plan of care designed to meet the unique
 36 health care needs of a student with diabetes in a school setting.

37 **Sec. 4.** As used in this chapter, "licensed health care
 38 practitioner" means an individual who:

39 (1) is licensed to provide health care services; and

40 (2) has prescriptive authority;

41 under IC 25.

42 **Sec. 5.** As used in this chapter, "physician" refers to an

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individual who is licensed under IC 25-22.5.

Sec. 6. As used in this chapter, "registered nurse" refers to an individual who is licensed as a registered nurse under IC 25-23.

Sec. 7. As used in this chapter, "school" refers to a public school, including a charter school.

Sec. 8. As used in this chapter, "school employee" means an individual employed by:

- (1) a public school, including a charter school, or an accredited nonpublic school;
- (2) a local health department working with a school under this chapter; or
- (3) another entity with which a school has contracted to perform the duties required under this chapter.

Sec. 9. As used in this chapter, "school nurse" refers to an individual who:

- (1) is employed by a school;
- (2) is licensed as a registered nurse under IC 25-23; and
- (3) meets the requirements set forth in 515 IAC 8-1-47.

Sec. 10. As used in this chapter, "student" refers to a student with diabetes.

Sec. 11. As used in this chapter, "volunteer health aide" means a school employee who:

- (1) is not licensed or authorized to provide health care services under IC 25;
- (2) volunteers to act in the capacity of a volunteer health aide; and
- (3) has successfully completed the training described in section 14 of this chapter.

Sec. 12. (a) A diabetes management and treatment plan must be prepared and implemented for a student with diabetes for use during school hours or at a school related activity. The plan must be developed by:

- (1) the licensed health care practitioner responsible for the student's diabetes treatment; and
- (2) the student's parent or legal guardian.

(b) A diabetes management and treatment plan must:

- (1) identify the health care services or procedures the student should receive at school;
 - (2) evaluate the student's:
 - (A) ability to manage; and
 - (B) level of understanding of;
- the student's diabetes; and

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(3) be signed by the student's parent or legal guardian and the licensed health care practitioner responsible for the student's diabetes treatment.

(c) The parent or legal guardian of a student with diabetes shall submit a copy of the student's diabetes management and treatment plan to the school nurse. The plan must be submitted to and be reviewed by the school nurse:

- (1) before or at the beginning of a school year;
- (2) at the time the student enrolls, if the student is enrolled in school after the beginning of the school year; or
- (3) as soon as practicable following a diagnosis of diabetes for the student.

Sec. 13. (a) An individualized health plan must be developed for each student with diabetes while the student is at school or participating in a school activity. The school's nurse shall develop a student's individualized health plan in collaboration with:

- (1) to the extent practicable, the licensed health care practitioner responsible for the student's diabetes treatment;
- (2) the school principal;
- (3) the student's parent or legal guardian; and
- (4) one (1) or more of the student's teachers.

(b) A student's individualized health plan must incorporate the components of the student's diabetes management and treatment plan.

Sec. 14. (a) At each school in which a student with diabetes is enrolled, the school principal, after consultation with the school nurse, shall:

- (1) seek school employees to serve as volunteer health aides; and
- (2) make efforts to ensure that the school has an adequate number of volunteer health aides to care for students.

(b) A volunteer health aide while providing health care services serves under the supervision and authorization of the principal and the school nurse in accordance with the requirements that apply to the school nurse under IC 25-23.

(c) A volunteer health aide must have access to the school nurse, in person or by telephone, during the hours that the volunteer health aide serves as a volunteer health aide.

(d) A school employee may not be subject to any disciplinary action for refusing to serve as a volunteer health aide. The school shall inform school employees that participation as a volunteer health aide is voluntary. A school employee who volunteers as a

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volunteer health aide may elect to perform only those functions that the school employee:

- (1) chooses to perform; and
- (2) is trained to perform in the training program described in section 15 of this chapter.

Sec. 15. (a) The department may cooperate with the state department of health in the development of a diabetes training program for school nurses. The department, with the assistance of physicians or registered nurses who are qualified in the area of diabetes training, shall provide annual diabetes training programs to school nurses. The training must include technological advances, current standards of practice for diabetes management and training, and instruction in the following:

- (1) Developing individualized health plans for students with diabetes that follow the orders of a licensed health care practitioner.
- (2) Recognizing and treating the symptoms of hypoglycemia and hyperglycemia.
- (3) Understanding the current standards of practice and the proper action to take if the blood glucose levels of a student are outside the target ranges indicated on the student's diabetes management and treatment plan.
- (4) Performing tests to check glucose and ketone levels, and recording the results.
- (5) Properly administering glucagon, insulin, or other emergency treatments prescribed by the licensed health care practitioner, and recording the results.
- (6) Recognizing complications that require emergency medical assistance.
- (7) Understanding recommended schedules and food intake for meals and snacks for a student, the effect of physical activity on blood glucose levels, and the proper action to be taken if a student's schedule referred to in this subdivision is disrupted.

(b) The department may cooperate with the state department of health in the development of a diabetes training program for volunteer health aides. The department, with the assistance of physicians and registered nurses who are qualified in the area of diabetes training, shall provide a diabetes training program for volunteer health aides, which includes the most current standards of practice and technology for diabetes, and treatment. The training must include the following:

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(1) Implementing the orders of a licensed health care practitioner.

(2) Recognizing and treating the symptoms of hypoglycemia and hyperglycemia consistent with the orders of the licensed health care practitioner.

(3) Performing tests to check glucose and ketone levels, and recording the results.

(4) Properly administering glucagon, insulin, or other emergency treatments as prescribed, and recording the results.

(5) Recognizing complications that require emergency medical assistance.

(6) Understanding:

(A) recommended schedules and food intake for meals and snacks;

(B) the effect of physical activity on blood glucose levels; and

(C) the proper action to be taken if a student's schedule is disrupted.

(c) The school nurse shall coordinate:

(1) the training of school employees acting as volunteer health aides, using the training program developed under subsection (b); and

(2) the record keeping and monitoring of a volunteer health aide acting under this chapter.

(d) Training for volunteer health aides must be provided by a health care professional with expertise in the care of individuals with diabetes or by a school nurse. The training must be provided before the beginning of the school year or as soon as practicable following:

(1) the enrollment; or

(2) the diagnosis;

of a student with diabetes at a school that previously had no students with diabetes.

(e) The school nurse or principal shall maintain a copy of the training program and the records of training completed by school employees.

Sec. 16. (a) The school nurse shall perform the tasks necessary to assist a student in carrying out the student's individualized health plan.

(b) When necessary, a volunteer health aide may perform the tasks necessary to assist a student in carrying out the student's

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individualized health plan, in compliance with the training guidelines provided under section 15 of this chapter.

(c) A volunteer health aide may act under this section only if the parent or legal guardian of the student signs an agreement that:

(1) authorizes a volunteer health aide to assist the student; and

(2) states that the parent or legal guardian understands that, as provided under IC 34-30-14, a volunteer health aide is not liable for civil damages for assisting in the student's care.

(d) A volunteer health aide who assists a student under this section:

(1) is not considered to be engaging in the practice of nursing; and

(2) is exempt from applicable statutes and rules that restrict activities that may be performed by an individual who is not an individual licensed or authorized under IC 25 to provide health care services.

(e) A school corporation may not restrict the assignment of a student to a particular school on the sole basis of whether the school has volunteer health aides.

Sec. 17. (a) As provided in a student's individualized health plan, a school shall, except in an emergency, allow the student to attend to the management and care of the student's diabetes if the student has been evaluated and determined to be capable of doing so as reflected in the student's individual health plan and the student's diabetes management and treatment plan, including the following activities:

(1) Performing blood glucose level checks.

(2) Administering insulin through the insulin delivery system the student uses.

(3) Treating hypoglycemia and hyperglycemia.

(4) Possessing on the student's person at any time the supplies or equipment necessary to monitor and care for the student's diabetes.

(5) Otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school related activity.

(b) The school nurse shall, in accordance with the requirements that apply to the school nurse under IC 25-23, establish a procedure through which a student described in subsection (a) is cared for in an emergency.

Sec. 18. A school shall provide the individual who is responsible

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for providing transportation for or supervising a student with diabetes during an off-campus school related activity an information sheet that:

- (1) identifies the student with diabetes;
- (2) identifies potential emergencies that may occur as a result of the diabetes and appropriate responses to an emergency; and
- (3) provides the telephone number of a contact in case an emergency occurs.

SECTION 5. IC 34-6-2-15.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.7. "Basic life support" has the meaning set forth in IC 16-18-2-33.5.

SECTION 6. IC 34-6-2-152 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 152. "Willful or wanton misconduct", for purposes of IC 34-13-3-3, means a course of action that:

- (1) shows an actual or deliberate intention to cause harm; or
- (2) if not intentional, shows indifference to or a conscious disregard for the safety of other individuals or property.

SECTION 7. IC 34-13-3-3, AS AMENDED BY P.L.47-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

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This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under

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- 1 IC 11-12.
- 2 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
- 3 project (as defined in IC 8-15-2-4(4)), tollway (as defined in
- 4 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
- 5 claimed loss occurs at least twenty (20) years after the public
- 6 highway, toll road project, tollway, or project was designed or
- 7 substantially redesigned; except that this subdivision shall not be
- 8 construed to relieve a responsible governmental entity from the
- 9 continuing duty to provide and maintain public highways in a
- 10 reasonably safe condition.
- 11 (19) Development, adoption, implementation, operation,
- 12 maintenance, or use of an enhanced emergency communication
- 13 system.
- 14 (20) Injury to a student or a student's property by an employee of
- 15 a school corporation if the employee is acting reasonably under a
- 16 discipline policy adopted under IC 20-33-8-7(b).
- 17 (21) An error resulting from or caused by a failure to recognize
- 18 the year 1999, 2000, or a subsequent year, including an incorrect
- 19 date or incorrect mechanical or electronic interpretation of a date,
- 20 that is produced, calculated, or generated by:
- 21 (A) a computer;
- 22 (B) an information system; or
- 23 (C) equipment using microchips;
- 24 that is owned or operated by a governmental entity. However, this
- 25 subdivision does not apply to acts or omissions amounting to
- 26 gross negligence, willful or wanton misconduct, or intentional
- 27 misconduct. For purposes of this subdivision, evidence of gross
- 28 negligence may be established by a party by showing failure of a
- 29 governmental entity to undertake an effort to review, analyze,
- 30 remediate, and test its electronic information systems or by
- 31 showing failure of a governmental entity to abate, upon notice, an
- 32 electronic information system error that caused damage or loss.
- 33 However, this subdivision expires June 30, 2003.
- 34 (22) An act or omission performed in good faith under the
- 35 apparent authority of a court order described in IC 35-46-1-15.1
- 36 that is invalid, including an arrest or imprisonment related to the
- 37 enforcement of the court order, if the governmental entity or
- 38 employee would not have been liable had the court order been
- 39 valid.
- 40 (23) An act taken to investigate or remediate hazardous
- 41 substances, petroleum, or other pollutants associated with a
- 42 brownfield (as defined in IC 13-11-2-19.3) unless:

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(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(24) The operation in accordance with IC 9-21-1-8(a) of an authorized emergency vehicle (as defined in IC 9-13-2-6), if the vehicle used a siren, an exhaust whistle, lights, or a bell as required under IC 9-19-14, unless the operation of the vehicle constituted willful or wanton misconduct of the operator of the vehicle.

SECTION 8. IC 34-30-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A school or school board may not:

(1) require a teacher or other school employee who is not employed as a school nurse or physician to administer:

(A) medication, drugs, or tests described in section 2 of this chapter; or

(B) health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes; or

(2) discipline a teacher or other school employee who:

(A) is not employed as a school nurse or physician; and

(B) refuses to administer medication, drugs, or tests without the written:

(i) authority of a pupil's parent or guardian; or

(ii) order of a practitioner;

required under section 2 of this chapter; or

(C) refuses to administer health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes.

SECTION 9. IC 34-30-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. If compliance with sections 3 and 4 of this chapter has occurred, a school administrator, teacher, or other school employee designated by the school administrator, after consultation with the school nurse, who in good faith administers **to a pupil:**

(1) a nonprescription medication in compliance with the written permission of the pupil's parent or guardian, except in the case of a life threatening emergency;

(2) a legend drug (as defined in IC 16-18-2-199 and including

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injectable insulin) in compliance with the:

(A) written order of a practitioner; and

(B) written permission of the pupil's parent or guardian, except in the case of a life threatening emergency;

(3) a ~~blood~~ glucose test ~~by finger prick~~ in compliance with the written order of a practitioner; ~~or~~

(4) health care services, basic life support, or other services that require the administrator, teacher, or employee to place the administrator's, teacher's, or employee's hands on the pupil for therapeutic or sanitary purposes; or

~~(4)~~ **(5) any combination of subdivisions (1) through (3); (4);**

~~to a pupil~~ is not personally liable for civil damages for any act that is incident to or within the scope of the duties of the employee as a result of the administration except for an act or omission amounting to gross negligence or willful and wanton misconduct.

SECTION 10. IC 34-30-14-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. A teacher:**

(1) who meets the requirement of IC 20-28-5-3(c); and

(2) who:

(A) performs cardiopulmonary resuscitation on;

(B) performs the Heimlich maneuver on; or

(C) removes a foreign body that is obstructing an airway of;

another person, in the course of employment as a teacher; is not liable in a civil action for damages resulting from an act or omission occurring during the provision of emergency assistance under this section, unless the act or omission constitutes gross negligence or willful and wanton misconduct.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) Although IC 20-28-5-3(c), as amended by this act, applies beginning July 1, 2007, a college or university located in Indiana may recommend to a person who has been accepted in a teacher training program before July 1, 2007, that the person should meet the requirements of IC 20-28-5-3(c), as amended by this act.

(b) This SECTION expires June 30, 2009.

SECTION 12. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "ADM" refers to a school corporation's average daily membership determined under IC 20-43-4-2.

(b) As used in this SECTION, "school corporation" means a public school corporation established by Indiana law. The term includes a:

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- 1 (1) school city;
- 2 (2) school town;
- 3 (3) school township;
- 4 (4) consolidated school corporation;
- 5 (5) metropolitan school district;
- 6 (6) township school corporation;
- 7 (7) county school corporation;
- 8 (8) united school corporation; or
- 9 (9) community school corporation.
- 10 (c) On the date a school corporation reports the school
- 11 corporation's ADM for the 2007-2008 school year, the school
- 12 corporation shall also report:
- 13 (1) the number of students in the school corporation who have
- 14 a chronic disease, by disease category; and
- 15 (2) the number of school nurses.
- 16 Chronic disease includes asthma, diabetes, and any other disease
- 17 the department of education determines is significant for the school
- 18 corporation to report.
- 19 (d) The department of education shall provide the information
- 20 required to be reported in subsection (c) to the health finance
- 21 commission established by IC 2-5-23-3 not later than sixty (60)
- 22 days after the department of education receives the reported
- 23 information.
- 24 (e) This SECTION expires June 30, 2008.
- 25 SECTION 13. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1116, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 15, delete "a course" and insert **"training"**.

Page 2, between lines 35 and 36, begin a new paragraph and insert:
"SECTION 2. IC 20-34-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 5. Care of Students With Diabetes

Sec. 1. As used in this chapter, "care assistant" means a school employee who:

- (1) is not a licensed health care professional; and**
- (2) has successfully completed the training required under section 10 of this chapter.**

Sec. 2. As used in this chapter, "diabetes management and treatment plan" means a plan prepared under section 7 of this chapter.

Sec. 3. As used in this chapter, "individualized health plan" means a coordinated plan of care designed to meet the unique health care needs of a student with diabetes in a school setting.

Sec. 4. As used in this chapter, "licensed health care practitioner" means a nurse practitioner.

Sec. 5. As used in this chapter, "school employee" means an individual employed by:

- (1) a public school or an accredited nonpublic school;**
- (2) a local health department working with a school under this chapter; or**
- (3) another entity with which a school has contracted to perform the duties required under this chapter.**

Sec. 6. As used in this chapter, "student" refers to a student with diabetes.

Sec. 7. (a) A diabetes management and treatment plan must be prepared and implemented for a student with diabetes whose parent seeks care for the student's diabetes while the student is at school or participating in a school activity. The plan must be developed by:

- (1) the student's parent; and**
- (2) the licensed physician or licensed health care practitioner responsible for the student's diabetes treatment.**

(b) A diabetes management and treatment plan must:

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(1) identify the health care services the student may receive at school;

(2) evaluate the student's:

(A) ability to manage; and

(B) level of understanding of;
the student's diabetes; and

(3) be signed by the student's parent and the licensed physician or licensed health care practitioner responsible for the student's diabetes treatment.

(c) The parent of a student who seeks care for the student's diabetes while the student is at school or participating in a school activity shall submit a copy of the student's diabetes management and treatment plan to the school. The plan must be submitted to and be reviewed by the school:

(1) before or at the beginning of a school year;

(2) at the time the student enrolls, if the student is enrolled in school after the beginning of the school year; or

(3) as soon as practicable following a diagnosis of diabetes for the student.

Sec. 8. (a) An individualized health plan must be developed for each student whose parent seeks care for diabetes while the student is at school or participating in a school activity. The school's principal and nurse, if the school has a nurse, shall develop a student's individualized health plan in collaboration with:

(1) the student's parent;

(2) to the extent practicable, the licensed physician or licensed health care practitioner responsible for the student's diabetes treatment; and

(3) one (1) or more of the student's teachers.

(b) A student's individualized health plan must incorporate the components of the student's diabetes management and treatment plan. A school shall develop a student's individualized health plan upon receiving the student's diabetes management and treatment plan.

Sec. 9. (a) At each school in which a student with diabetes is enrolled, the school principal shall:

(1) seek school employees to serve as care assistants; and

(2) make efforts to ensure that the school has:

(A) at least one (1) care assistant if a full-time nurse is assigned to the school; and

(B) at least two (2) but not more than five (5) care assistants if a full-time nurse is not assigned to the school.

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(b) A care assistant while providing health care services serves under the supervision and authorization of the principal and the school nurse, if the school has a nurse.

(c) A school employee may not be subject to any disciplinary action for refusing to serve as a care assistant.

Sec. 10. (a) The state department of health, with the assistance of interested parties, shall develop a training program that includes instruction in the following:

- (1) Recognizing the symptoms of hypoglycemia and hyperglycemia.
- (2) Understanding the proper action to take if the blood glucose levels of a student are outside the target ranges indicated on the student's diabetes management and treatment plan.
- (3) Understanding the details of a student's individualized health plan.
- (4) Performing finger sticks to check blood glucose levels, checking urine ketone levels, and recording the results of the checks.
- (5) Properly administering glucagon and insulin, and recording the results of the administration.
- (6) Recognizing complications that require emergency medical assistance.
- (7) Understanding recommended schedules and food intake for meals and snacks for a student, the effect of physical activity on blood glucose levels, and the proper action to be taken if a student's schedule referred to in this subdivision is disrupted.

(b) If a school nurse is assigned to a school, the school nurse shall coordinate the training of school employees acting as care assistants, using the training program developed under subsection (a).

(c) Training for care assistants must be provided by a health care professional with expertise in the care of individuals with diabetes or by a school nurse. The training must be provided before the beginning of the school year or as soon as practicable following:

- (1) the enrollment; or
- (2) the diagnosis;

of a student with diabetes at a school that previously had no students with diabetes.

(d) The school nurse or principal shall maintain a copy of the

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training program and the records of training completed by the school employees.

Sec. 11. (a) If a school nurse is assigned to a school and the nurse is available, the nurse shall perform the tasks necessary to assist a student in carrying out the student's individualized health plan.

(b) If a school nurse is not assigned to a school or the nurse is not available, a care assistant shall perform the tasks necessary to assist a student in carrying out the student's individualized health plan, in compliance with the training guidelines provided under section 10 of this chapter. A care assistant must have access to a health care professional with expertise in the care of individuals with diabetes or a principal must have access to the licensed physician or licensed health care practitioner responsible for the student's diabetes treatment if a care assistant acts under this subsection.

(c) A care assistant may act under this section only if the parent of the student signs an agreement that:

- (1)** authorizes a care assistant to assist the student; and
- (2)** states that the parent understands that, as provided under IC 34-30-14, a care assistant is not liable for civil damages for assisting in the student's care.

(d) A care assistant who assists a student under this section:

- (1)** is not considered to be engaging in the practice of nursing;
- (2)** is exempt from applicable statutes and rules that restrict activities that may be performed by an individual who is not a health care professional; and
- (3)** may exercise reasonable judgment in deciding whether to contact a health care provider in a medical emergency involving a student with diabetes.

(e) A school corporation may not restrict the assignment of a student to a particular school on the basis that the school does not have the required care assistants.

Sec. 12. As provided in a student's individualized health plan, a school corporation shall allow the student to attend to the management and care of the student's diabetes, including but not limited to the following activities:

- (1)** Performing blood glucose level checks.
- (2)** Administering insulin through the insulin delivery system the student uses.
- (3)** Treating hypoglycemia and hyperglycemia.
- (4)** Possessing on the student's person at any time the supplies or equipment necessary to monitor and care for the student's

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diabetes.

(5) Otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school related activity.

Sec. 13. A school shall provide the individual who is responsible for providing transportation for or supervising a student with diabetes during an off-campus school related activity an information sheet that:

- (1) identifies the student with diabetes;**
- (2) identifies potential emergencies that may occur as a result of the diabetes and appropriate responses to an emergency;**
and
- (3) provides the telephone number of a contact in case an emergency occurs.**

SECTION 3. IC 34-30-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. If compliance with sections 3 and 4 of this chapter has occurred, a school administrator, teacher, or other school employee designated by the school administrator, after consultation with the school nurse, who in good faith administers:

- (1) a nonprescription medication in compliance with the written permission of the pupil's parent or guardian, except in the case of a life threatening emergency;**
- (2) a legend drug (as defined in IC 16-18-2-199 and including injectable insulin) in compliance with the:**
 - (A) written order of a practitioner; and**
 - (B) written permission of the pupil's parent or guardian, except in the case of a life threatening emergency;**
- (3) a blood glucose test by finger prick in compliance with the written order of a practitioner; or**
- (4) any combination of subdivisions (1) through (3);**

to a pupil is not personally liable for civil damages for any act that is incident to or within the scope of the duties of the employees position of employment or that involves the exercise of judgment or discretion on the part of the employee as a result of the administration except for an act or omission amounting to gross

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negligence or willful and wanton misconduct."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1116 as introduced.)

PORTER, Chair

Committee Vote: yeas 9, nays 0.

Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Engrossed House Bill 1116, currently assigned to the Committee on Education and Career Development, be reassigned to the Committee on Health and Provider Services.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1116, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 40 through 42.

Page 3, delete lines 1 through 2.

Page 3, line 3, delete "2." and insert "1."

Page 3, line 4, delete "7" and insert "12".

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 2. As used in this chapter, "health care services" has the meaning set forth in IC 27-8-11-1."

Page 3, line 10, delete "a nurse practitioner." and insert **"an individual who:**

(1) is licensed to provide health care services; and

(2) has prescriptive authority;

under IC 25.

Sec. 5. As used in this chapter, "physician" refers to an

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individual who is licensed under IC 25-22.5.

Sec. 6. As used in this chapter, "registered nurse" refers to an individual who is licensed as a registered nurse under IC 25-23.

Sec. 7. As used in this chapter, "school" refers to a public school, including a charter school."

Page 3, line 11, delete "5." and insert "8."

Page 3, line 13, after "public school" insert ", including a charter school,".

Page 3, line 18, delete "6." and insert **"9. As used in this chapter, "school nurse" refers to an individual who:**

- (1) is employed by a school;**
- (2) is licensed as a registered nurse under IC 25-23; and**
- (3) meets the requirements set forth in 515 IAC 8-1-47.**

Sec. 10."

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"Sec. 11. As used in this chapter, "volunteer health aide" means a school employee who:

- (1) is not licensed or authorized to provide health care services under IC 25;**
- (2) volunteers to act in the capacity of a volunteer health aide; and**
- (3) has successfully completed the training described in section 14 of this chapter."**

Page 3, line 20, delete "7." and insert **"12."**

Page 3, line 21, delete "whose" and insert **"for use during school hours or at a school related activity."**

Page 3, delete line 22.

Page 3, line 23, delete "school or participating in a school activity."

Page 3, run in lines 21 through 23.

Page 3, delete line 25.

Page 3, line 26, delete "(2)" and insert **"(1)"**.

Page 3, line 26, delete "licensed physician or".

Page 3, line 27, delete "." and insert **"; and**

(2) the student's parent or legal guardian."

Page 3, line 29, after "services" insert **"or procedures"**.

Page 3, line 29, delete "may" and insert **"should"**.

Page 3, line 35, after "parent" insert **"or legal guardian"**.

Page 3, line 36, delete "physician or licensed".

Page 3, line 38, after "parent" insert **"or legal guardian"**.

Page 3, line 38, delete "who seeks care for the student's" and insert **"with"**.

Page 3, line 39, delete "while the student is at school or participating

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in a school".

Page 3, line 40, delete "activity".

Page 3, line 41, delete "school." and insert "**school nurse.**".

Page 3, line 42, delete "school:" and insert "**school nurse:**".

Page 4, line 6, delete "8." and insert "**13.**".

Page 4, line 7, delete "whose parent seeks care for" and insert "**with**".

Page 4, line 9, delete "principal and nurse, if the school has a nurse," and insert "**nurse**".

Page 4, delete line 11.

Page 4, line 12, delete "(2)" and insert "**(1)**".

Page 4, line 12, delete "licensed physician or".

Page 4, line 14, delete "and", begin a new line block indented and insert:

(2) the school principal;

(3) the student's parent or legal guardian; and".

Page 4, line 15, delete "(3)" and insert "**(4)**".

Page 4, line 18, delete "A school shall develop a student's individualized health plan".

Page 4, delete lines 19 through 20.

Page 4, line 21, delete "9." and insert "**14.**".

Page 4, line 22, delete "principal" and insert "**principal, after consultation with the school nurse,**".

Page 4, line 23, delete "care assistants;" and insert "**volunteer health aides;**".

Page 4, line 24, delete "has:" and insert "**has an adequate number of volunteer health aides to care for students.**".

Page 4, delete lines 25 through 28.

Page 4, line 29, delete "care assistant" and insert "**volunteer health aide**".

Page 4, line 31, delete ", if the school has a nurse." and insert "**in accordance with the requirements that apply to the school nurse under IC 25-23.**".

Page 4, line 32, after "(c)" insert "**A volunteer health aide must have access to the school nurse, in person or by telephone, during the hours that the volunteer health aide serves as a volunteer health aide.**

(d)".

Page 4, line 33, delete "care assistant." and insert "**volunteer health aide. The school shall inform school employees that participation as a volunteer health aide is voluntary. A school employee who volunteers as a volunteer health aide may elect to perform only**

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those functions that the school employee:

(1) chooses to perform; and

(2) is trained to perform in the training program described in section 15 of this chapter."

Page 4, line 34, delete "10." and insert "15."

Page 4, line 34, delete "state department of health," and insert "department,".

Page 4, line 34, after "assistance" insert **"of physicians or registered nurses who are qualified in the area of diabetes training and the state department of health, shall provide annual diabetes training programs to school nurses. The training must include technological advances, current standards of practice for diabetes management and training, and"**.

Page 4, delete line 35.

Page 4, run in lines 34 through 36.

Page 4, line 37, after "(1)" insert **"Developing individualized health plans for students with diabetes that follow the orders of a licensed health care practitioner.**

(2)".

Page 4, line 37, after "Recognizing" insert **"and treating"**.

Page 4, line 39, delete "(2)" and insert **"(3)"**.

Page 4, line 39, after "Understanding" insert **"the current standards of practice and"**.

Page 5, delete lines 1 through 2.

Page 5, line 3, delete "finger sticks" and insert **"tests"**.

Page 5, line 3, delete "blood glucose" and insert **"glucose and ketone"**.

Page 5, line 4, delete "checking urine ketone levels,".

Page 5, line 4, delete "results of the" and insert **"results."**.

Page 5, delete line 5.

Page 5, line 6, delete "glucagon and insulin," and insert **"glucagon, insulin, or other emergency treatments prescribed by the licensed health care practitioner,"**.

Page 5, line 7, delete "results of the administration." and insert **"results."**.

Page 5, line 15, delete "If a school nurse is assigned to a school, the" and insert **"The department, with the assistance of physicians and registered nurses who are qualified in the area of diabetes training and the state department of health, shall develop and provide a diabetes training program for volunteer health aides, which includes the most current standards of practice and technology for diabetes, and treatment. The training must include the following:**

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(1) Implementing the orders of a licensed health care practitioner.

(2) Recognizing and treating the symptoms of hypoglycemia and hyperglycemia consistent with the orders of the licensed health care practitioner.

(3) Performing tests to check glucose and ketone levels, and recording the results.

(4) Properly administering glucagon, insulin, or other emergency treatments as prescribed, and recording the results.

(5) Recognizing complications that require emergency medical assistance.

(6) Understanding:

(A) recommended schedules and food intake for meals and snacks;

(B) the effect of physical activity on blood glucose levels; and

(C) the proper action to be taken if a student's schedule is disrupted.

(c) The".

Page 5, line 16, delete "coordinate" and insert "**coordinate:**

(1)".

Page 5, line 16, delete "care" and insert "**volunteer health aides,**".

Page 5, line 17, delete "assistants,".

Page 5, line 18, delete "(a)." and insert "**(b); and**

(2) the record keeping and monitoring of a volunteer health aide acting under this chapter."

Page 5, line 19, delete "(c)" and insert "**(d)**".

Page 5, line 19, delete "care assistants" and insert "**volunteer health aides**".

Page 5, line 28, delete "(d)" and insert "**(e)**".

Page 5, line 29, delete "by the" and insert "**by**".

Page 5, line 31, delete "11." and insert "**16.**".

Page 5, line 31, delete "If a school nurse is assigned to a school and the nurse".

Page 5, line 32, delete "is available, the" and insert "**The school**".

Page 5, line 34, delete "If a school nurse is not assigned to a school or the nurse is" and insert "**When necessary, a volunteer health aide may**".

Page 5, line 35, delete "not available, a care assistant shall".

Page 5, line 38, delete "10" and insert "**15**".

Page 5, line 38, delete "A care assistant must have access to a".

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Page 5, delete lines 39 through 42.

Page 6, delete line 1.

Page 6, line 2, delete "care assistant" and insert **"volunteer health aide"**.

Page 6, line 2, after "parent" insert **"or legal guardian"**.

Page 6, line 4, delete "care assistant" and insert **"volunteer health aide"**.

Page 6, line 5, after "parent" insert **"or legal guardian"**.

Page 6, line 6, delete "care assistant" and insert **"volunteer health aide"**.

Page 6, line 8, delete "care assistant" and insert **"volunteer health aide"**.

Page 6, line 9, after "nursing;" insert **"and"**.

Page 6, line 12, delete "a health care professional; and" and insert **"an individual licensed or authorized under IC 25 to provide health care services."**

Page 6, delete lines 13 through 15.

Page 6, line 17, after "on the" insert **"sole"**.

Page 6, line 17, delete "that" and insert **"of whether"**.

Page 6, line 17, delete "does not" and insert **"has volunteer health aides."**

Page 6, delete line 18.

Page 6, line 19, delete "12." and insert **"17. (a)"**.

Page 6, line 20, delete "corporation".

Page 6, line 20, after "shall" insert **", except in an emergency,"**.

Page 6, line 21, delete "diabetes," and insert **"diabetes if the student has been evaluated and determined to be capable of doing so as reflected in the student's individual health plan and the student's diabetes management and treatment plan,"**.

Page 6, line 21, delete "but not".

Page 6, line 22, delete "limited to".

Page 6, between lines 32 and 33, begin a new paragraph and insert:

"(b) The school nurse shall, in accordance with the requirements that apply to the school nurse under IC 25-23, establish a procedure through which a student described in subsection (a) is cared for in an emergency."

Page 6, line 33, delete "13." and insert **"18."**

Page 6, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 34-6-2-15.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.7. "Basic life support" has the meaning set forth in IC 16-18-2-33.5.

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SECTION 4. IC 34-30-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A school or school board may not:

(1) require a teacher or other school employee who is not employed as a school nurse or physician to administer:

(A) medication, drugs, or tests described in section 2 of this chapter; or

(B) health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes; or

(2) discipline a teacher or other school employee who:

(A) is not employed as a school nurse or physician; and

(B) refuses to administer medication, drugs, or tests without the written:

(i) authority of a pupil's parent or guardian; or

(ii) order of a practitioner;

required under section 2 of this chapter; or

(C) refuses to administer health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes."

Page 7, line 6, delete ":" and insert "to a pupil:".

Page 7, line 15, strike "blood".

Page 7, line 15, strike "by finger prick".

Page 7, line 16, strike "or".

Page 7, between lines 16 and 17, begin a new line block indented and insert:

"(4) health care services, basic life support, or other services that require the administrator, teacher, or employee to place the administrator's, teacher's, or employee's hands on the pupil for therapeutic or sanitary purposes; or".

Page 7, line 17, strike "(4)" and insert "(5)".

Page 7, line 17, strike "(3);" and insert "(4);".

Page 7, line 18, strike "to a pupil".

Page 7, line 19, delete "employees" and insert "employee".

Page 7, delete line 20.

Page 7, line 21, delete "or discretion on the part of the employee".

Page 7, run in lines 19 through 21.

Page 8, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "ADM" refers to a school corporation's average daily

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membership determined under IC 20-43-4-2.

(b) As used in this SECTION, "school corporation" means a public school corporation established by Indiana law. The term includes a:

- (1) school city;
- (2) school town;
- (3) school township;
- (4) consolidated school corporation;
- (5) metropolitan school district;
- (6) township school corporation;
- (7) county school corporation;
- (8) united school corporation; or
- (9) community school corporation.

(c) On the date a school corporation reports the school corporation's ADM for the 2007-2008 school year, the school corporation shall also report:

- (1) the number of students in the school corporation who have a chronic disease, by disease category; and
- (2) the number of school nurses.

Chronic disease includes asthma, diabetes, and any other disease the department of education determines is significant for the school corporation to report.

(d) The department of education shall provide the information required to be reported in subsection (c) to the health finance commission established by IC 2-5-23-3 not later than sixty (60) days after the department of education receives the reported information.

(e) This SECTION expires June 30, 2008."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1116 as printed February 16, 2007.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1116 be amended to read as follows:

Page 5, line 17, after "(a)" insert "**The department may cooperate with the state department of health in the development of a diabetes training program for school nurses.**".

Page 5, line 18, after "training" insert ",".

Page 5, line 19, delete "and the state department of health,".

Page 6, line 2, after "(b)" insert "**The department may cooperate with the state department of health in the development of a diabetes training program for volunteer health aides.**".

Page 6, line 3, after "training" insert ",".

Page 6, line 4, delete "and the state department of health,".

Page 6, line 4, delete "develop and".

(Reference is to EHB 1116 as printed March 30, 2007.)

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 SENATE MOTION

Madam President: I move that Engrossed House Bill 1116 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health matters.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This section applies to the person who drives an authorized emergency vehicle when:

- (1) responding to an emergency call;
- (2) in the pursuit of an actual or suspected violator of the law; or
- (3) responding to, but not upon returning from, a fire alarm.

(b) The person who drives an authorized emergency vehicle may do the following:

- (1) Park or stand, notwithstanding other provisions of this article.
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as necessary for safe operation.
- (3) Exceed the maximum speed limits if the person who drives the

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vehicle does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) This section applies to an authorized emergency vehicle only when the vehicle is using audible or visual signals as required by law. An authorized emergency vehicle operated as a police vehicle is not required to be equipped with or display red and blue lights visible from in front of the vehicle.

(d) This section does not do the following:

(1) Relieve the person who drives an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.

(2) Protect the person who drives an authorized emergency vehicle from the consequences of the person's reckless disregard for the safety of others.

(3) Abrogate the immunity granted under IC 34-13-3-3.

SECTION 2. IC 9-21-8-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35. (a) Upon the immediate approach of an authorized emergency vehicle, when the person who drives the authorized emergency vehicle is giving audible signal by siren or displaying alternately flashing red, red and white, or red and blue lights, a person who drives another vehicle shall do the following unless otherwise directed by a law enforcement officer:

(1) Yield the right-of-way.

(2) Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection.

(3) Stop and remain in the position until the authorized emergency vehicle has passed.

(b) Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, or red and blue lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

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(c) Upon approaching a stationary recovery vehicle or a stationary highway maintenance vehicle, when the vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:

- (1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the recovery vehicle or highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or
- (2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(d) This section does not operate to:

- (1) relieve the person who drives an authorized emergency vehicle, a recovery vehicle, or a highway maintenance vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway; **and**
- (2) **abrogate the immunity granted under IC 34-13-3-3."**

Page 8, between lines 20 and 21, begin a new paragraph and insert:
 "SECTION 6. IC 34-6-2-152 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 152. "Willful or wanton misconduct", for purposes of IC 34-13-3-3, means a course of action that:**

- (1) **shows an actual or deliberate intention to cause harm; or**
- (2) **if not intentional, shows indifference to or a conscious disregard for the safety of other individuals or property.**

SECTION 7. IC 34-13-3-3, AS AMENDED BY P.L.47-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.** A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal

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condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

- (A) a set of rules governing the use of the extreme sport area;
- (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
- (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.
- (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
- (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
- (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
- (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
- (11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.
- (12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.
- (13) Entry upon any property where the entry is expressly or impliedly authorized by law.
- (14) Misrepresentation if unintentional.
- (15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.
- (16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

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(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1

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that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(24) The operation in accordance with IC 9-21-1-8(a) of an authorized emergency vehicle (as defined in IC 9-13-2-6), if the vehicle used a siren, an exhaust whistle, lights, or a bell as required under IC 9-19-14, unless the operation of the vehicle constituted willful or wanton misconduct of the operator of the vehicle."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1116 as printed March 30, 2007.)

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